THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

AND

THE HON'BLE MR JUSTICE D. APPA RAO

W.P.NO.9409 OF 2006

(PER LNR, J)

% 30-05-2006

Between:

Rajpal Singh

…Petitioner

A n d

The Collector and District Magistrate,

Hyderabad District, Hyderabad & others

…Respondents

! COUNSEL FOR THE PETITIONER: Sri K.Sarvabhouma Rao

^ COUNSEL FOR THE RESPONDENTS: The Advocate General

< Gist:

> Head Note:

? CITATIONS:

1. AIR 1952 SC 350
2. 2004 (6) ALD 816 (DB)

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

WRIT PETITION No.9409 OF 2006

Dated May 2006

Between:

Rajpal Singh S/o.late Ganesh Singh

…Petitioner

And

The Collector & District Magistrate,

Hyderabad District, Hyderabad & others

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D. APPA RAO

WRIT PETITION No.9409 OF 2006

O R D E R: (Per the Hon'ble Sri Justice L.Narasimha Reddy)

This writ petition is filed, with a prayer to issue a writ of Habeas Corpus, for production and release of Rajpal Singh S/o. late Ganesh Singh. The mother of the petitioner had filed an affidavit, in support of the writ petition. She stated that her son was detained under the provisions of the A.P. Prevention of Dangerous Activities of Boot Leggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act 1986, for short "the Act", through order of detention, dated 3.4.2006, passed by the 1st respondent.

The 1st respondent passed the order of detention, stating *inter alia* that the petitioner is a boot legger, as defined under Section 2(b) of the Act, and that it became necessary and inevitable to detain him, with an object of preventing his acts, which are prejudicial to the maintenance of public order. The order passed by the 1st respondent was approved by the 2nd respondent, through G.O.Rt.No.1935, dated 13.4.2006.

The petitioner was also supplied with the grounds of detention, along with the order of the detention. Reference is made to three cases, registered under Section 7-A, read with Section 8(c) of A.P. Prohibition Act, 1995. It was observed that the normal legal process, initiated against the petitioner, could not prevent his activities and that he continued to act as a boot legger.

The petitioner contends that the allegations made against him are baseless. It is pleaded that mere registration of cases is not a ground for detention, and that he never indulged in any illegal activities, much less, the one in supply of spurious liquor.

On behalf of the respondents, a counter affidavit is filed. It is stated that the petitioner is indulging in the activities of manufacture and supply of spurious liquor, which is detrimental to the public health. It is also stated that the petitioner was informed that

he has a right to make a representation to the Advisory Board and that the order of detention was passed, strictly in accordance with the provisions of the Act.

Learned counsel for the petitioner, Sri K.Sarvabhouma Rao, has urged several contentions. He submits that the order of detention suffers from a serious infirmity, inasmuch as no period of detention was mentioned. He further submits that there does not exist any factual or legal basis, for detaining the petitioner. According to him, the petitioner was falsely implicated in three cases, and mere registration of cases cannot constitute the basis for detention, without specific period. He has raised certain other grounds also.

Learned Advocate General, on the other hand, submits that the activities of the petitioner were found to be detrimental to the health of the public, and even registration of cases did not deter him from undertaking the activities. He also submits that the matter has already been referred to the Advisory Board, and the petitioner can submit his representation to the Advisory Board.

The 1st respondent passed the order of detention, against the petitioner, alleging acts of manufacture and supply of spurious liquor. Sub-section (3) of Section 3 of the Act mandates that an order of detention passed by a District Magistrate, would be in force, for a period of 12 days, unless it is approved by the State Government. In the instant case, the order of detention was passed on 3.4.2006, and within the stipulated time, the 2nd respondent issued G.O.Rt.No.1935, dated 13.4.2006, approving the order of detention.

It is true that in the order of detention, the 1st respondent did not specify the period of detention, and G.O.Rt.No.1935 dated 13.4.2006, is equally silent. Viewed in isolation, the order may appear to be defective and be liable to be set aside, on the ground that it does not specify the period of detention. It would have been particularly so, had it been an order of a Criminal Court, imposing punishment. The reason is that stipulation of period of imprisonment is one of the important facets in the matter of imposition of punishment. However, orders directing preventive detention stand on slightly different footing. Under the Act, an order of detention once passed, would be in force, initially for a period of three months. It can be extended by the State Government, in exercise of powers under proviso to sub-section (2) of Section 3 of the Act, for a term not exceeding three months, at a time, up to 12 months. In ***UJAGAR SINGH v. STATE OF PUNJAB***, the Supreme Court held

that omission to specify the period of detention is not fatal. Therefore, the order of detention cannot be set aside, on the sole ground that it does not specify the period.

Another ground urged on behalf of the petitioner is that he knows only Hindi, and the grounds supplied to him are in English and Telugu. In para-9 of the affidavit, it was clearly stated that the petitioner knows Hindi alone. In
para-14 of the counter affidavit, this allegation was adverted to, by stating that after receiving the order and grounds of detention, the petitioner had endorsed that he has read and understood the same.

If, in fact, the petitioner does not know Telugu and English, his detention becomes invalid and illegal, for non-supply of grounds, translated into Hindi. The question as to whether the petitioner is conversant with English and Telugu languages, or he knows Hindi alone, can effectively be dealt with by the Advisory Board. The Board can also ascertain, as to whether the endorsement made by the petitioner was a mechanical one, or made by the petitioner, after he read and understood the contents. In case, it emerges that the petitioner knows Hindi alone, the Advisory Board needs to take the same into account. The petitioner can approach this court, once again, after the matter is dealt with by the Advisory Board, if does not get any relief.

Learned counsel for the petitioner relied upon a judgment of this court reported in ***CHALLA VENKATESWARA RAO v. COLLECTOR AND DISTRICT MAGISTRATE, KRISHNA DISTRICT***, in support of his contention that even if the petitioner was found to have violated the provisions of the A.P. Prohibition Act, as regards minor quantities, the extreme step of preventive detention cannot be resorted to. We do not propose to deal with the said aspect, at this stage, since the matter is yet to be examined by the Advisory Board.

In the reply affidavit, it was urged that the matter has not been placed before the Advisory Board, as yet. Having regard to the time frame prescribed under the Act, we do not find that there was any infraction of the provisions of the Act, in this regard.

For the foregoing reasons, the writ petition is dismissed. It is, however, made clear that the Advisory Board shall deal with the contention of the petitioner, as to his not being conversant with English and Telugu languages, and take appropriate decision, in this regard, apart from other aspects. In case, the order of detention

continues, even after consideration by the Advisory Board, it shall be open to the petitioner, to approach this court, by filing a fresh writ petition. There shall be no order as to costs.

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(L. NARASIMHA REDDY, J)

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(D. APPA RAO, J)

Dt: 30--05-2006

Note:

L.R. copies be marked.

(B/O) PAN*